

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 130 – SB 113

May 2, 2011

SUMMARY OF AMENDMENTS (007253, 007469): Deletes the original bill.

Repeals the Education Professional Negotiation Act which authorizes teachers' associations or other professional unions to negotiate terms and conditions of professional services with local school boards, including salary and benefits. Suspends all bargaining taking place pursuant to the Education Professional Negotiation Act upon the effective date of the bill. Defines the terms board of education, collaboration, management personnel, management team, person, professional employee, professional employee organization, strike, supervisor, and working conditions of professional employees. Prohibits a professional employee organization, its representative, or any professional employee from engaging or encouraging or coercing others to strike. Authorizes local education agencies (LEAs) to appeal to the chancery court if a strike occurs and authorizes LEAs to terminate employees who participate in a strike. Prohibits a local board of education or members of its management team from imposing or threatening reprisals on professional employees who exercise their rights; refuse or fail to participate in good faith collaboration; deny professional employees' organizations access before or after the instructional day to employee work areas or other communication outlet, or to use institutional facilities; influence membership in any organization; discharge or discriminate against an employee who has filed an affidavit, petition, or complaint; dominate, interfere, or assist in the administration of a professional employee organization; prohibit employees from having a representative of the professional employee organization or other individual to represent them in legal matters; and deny a professional employee organization from distributing information, setting-up displays, or speaking where one or more professional employee organizations have been invited to do so.

Prohibits a professional employee organization or its representatives from causing or attempting to cause a board of education to engage in unlawful conduct under the bill; refuse or fail to participate in good faith collaboration; interfering, restraining, or coercing professional employees or a board of education in the exercise of rights granted under the bill; striking; entering school grounds in a manner and time that will interfere with normal school operations; or coercing or attempting to intimidate professional employees who do not join the organizations.

Requires local boards of education to collaborate with professional employees or their designated representatives on terms and conditions of employment limited to the following: salary or wages, grievance procedures, insurance, fringe benefits (not including the Tennessee Consolidated Retirement System or locally authorized early retirement incentives), working conditions as defined within the bill, leave, and payroll deductions. Prohibits collaboration on differentiated pay plans, expenditure of grants or awards from federal, state, or local governments or foundations, evaluation of professional employees, and staffing decisions and

policies related to innovative education or virtual education programs. Grants the local board of education final authority for the specification of terms and conditions.

Requires the Tennessee Organization of School Superintendents (TOSS), in consultation with each interested professional employee organization and the Tennessee School Boards Association (TSBA), to develop and publish, by January 1, 2012, a model professional employee manual containing working conditions and terms. The model manual shall be revised by TOSS as appropriate with applicable changes in law and best practices. The State Board of Education shall notify each local board of education when the model is revised. Requires a training program in collaborative problem-solving to be developed by TOSS, in consultation with representative organizations of school leaders and administrators and professional employee organizations, and presented to the Education Committees of the General Assembly. Requires local boards of education to implement the collaborative training program by July 1, 2012. Requires local boards of education to develop and adopt a professional employee manual by April 17, 2012. All initial professional employee manuals shall take effect July 1, 2012; however, all currently negotiated agreements in effect shall remain in effect until their scheduled end date. Requires all proposed manuals to be posted for review on the website of the local board of education. If the local board of education does not have a website, the proposed manual shall be made available at each LEA school library. Requires local boards of education to provide current and retired professional employees or professional employee organizations a 45-day written comment and recommendation period on the proposed manual. Prohibits local boards of education from denying these personnel or organizations the ability to submit written input. Requires one public hearing to be held after the comment period has ended. If revisions are made to the proposed manual, the public hearing shall be held at least seven days after the manual is made available on the board's website. The manual shall be a public document and shall be reviewed every three years, or more often, at the discretion of the local board of education. Each policy manual is binding on professional employees until its review and possible revision.

Requires the local board of education to establish policies concerning the dismissal of LEA employees by school principals and requires that employees be given written notice of charges against them and an opportunity to defend said charges. Prohibits local boards of education from adversely affecting an individual professional employee or group of professional employees for purposes unrelated to the duties and powers of the local board of education. Deletes references in current law to the Education Professional Negotiations Act.

FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact – Local Education Agencies (LEAs) will reduce expenditures currently spent on litigation and negotiator stipends arising from collective bargaining agreements by \$435,000. LEAs may permissively reduce funding for insurance premiums and other negotiated items in the absence of collective bargaining agreements. This permissive decrease in local expenditures will be \$16,111,400.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Expenditures – Not Significant

Increase Local Expenditures – Not Significant

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Assumptions applied to amendments:

- LEAs will hold notice and comment periods, publish adopted and proposed professional employee manuals and conduct public meetings without a significant increase in local expenditures.
- According to TOSS, their membership rates will not increase as a result of developing the model professional employee manual.
- According to the Tennessee School Boards Association, 92 of 136 LEAs have collective bargaining agreements.
- Currently, school boards appoint staff members to serve on collective bargaining agreement negotiation councils. One-third of the 92 LEAs (31) pay employee negotiator stipends that total \$10,000 per LEA per year. The local expenditure for stipends is \$310,000 ($\$10,000 \times 31$).
- Approximately five lawsuits are filed each year concerning collective bargaining agreements. This litigation will no longer occur. The cost of each case in attorney's fees and expenses is \$25,000. No damages are awarded in these cases. The cost is funded by local governments. Annual local expenditures for litigation are estimated to be \$125,000 ($\$25,000 \times 5$).
- The total decrease in local expenditures will be \$435,000 ($\$310,000 + \$125,000$).
- According to information provided by the TSBA, the average annual insurance premium per employee paid by school districts without a collective bargaining agreement is \$5,903. The average annual insurance premium per employee paid by school districts with a collective bargaining agreement is \$6,499. This is an annual average difference of \$596 per employee ($\$6,499 - \$5,903$). The local BEP maintenance of effort requirement does not apply to insurance premiums.
- According to the DOE 2010 Report Card, the total number of teachers in LEAs with collective bargaining agreements is 54,065.
- LEAs with collective bargaining agreements under current law may reduce their portion of teacher insurance premiums by an average of 50 percent of the premium difference. The permissive reduction in local expenditures will be \$16,111,370 ($54,065 \text{ teachers} \times \$596 \times \$0.50$).

- Tenn. Code Ann. § 49-3-306(b)(4)(B) prevents any reduction in teacher salaries. The BEP maintenance of effort will also prevent any reduction in teacher salaries.
- Any increase in state expenditures to notify local boards of education of model manual changes will be not significant and may be done electronically. No new personnel will be hired and no budget item will be reduced.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink, appearing to read "James W. White" with a stylized flourish at the end.

James W. White, Executive Director

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